REMARKS

This is intended as a full and complete response to the Final Office Action dated September 23, 2005, having a shortened statutory period for response set to expire on December 23, 2005. Applicants submit this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1, 4-21, 24 and 27-44 are pending in the application. Claims 1, 4-21, 24 and 27-44 remain pending following entry of this response.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 4-9, 11-13, 15, 16-17, 19-21, 24, 27-32, 34-36, 38 and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable *Quinlan*, US Patent 6,748,365B1 in view of *Van Dusen*, US Patent 6,175,823B1. Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143. The present rejection fails to establish at least the first and the third criteria.

First, there is no suggestion or motivation in *Van Dusen*, or in the knowledge generally available to one ordinary skill in the art, to modify or to combine the teaching of *Van Dusen* because *Van Dusen* is non-analogous art. To rely on a reference under 35 U.S.C. § 103, the reference must be analogous prior art. *See* MPEP § 2141.01(a). A reference is considered analogous prior art if the reference is either in the field of Applicants' endeavor or, if the reference is reasonably pertinent to the particular problem with which the inventor was concerned. *Id.* A reference is pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which,

because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. *See id.*, citing *Wang Laboratories v. Toshiba Corp.*, 993 F.2d 858 (Fed. Cir. 1993). Furthermore, when determining whether a reference is analogous, the Examiner cannot look at isolated teachings of the prior art without considering the over-all context within which those teachings are presented. *In re Pagliaro*, 657 F.2d 1219, 1225 (Cust & Pat.App., 1981). Thus, the Examiner must consider each reference as a whole and determine if the reference as a whole is concerned with problems associated with the pending application. *Id.*

Van Dusen is not analogous prior art because the business model for implementing a gift certificate is significantly different from the business model for implementing a rebate. A gift certificate must be purchased as a separate product and applied toward (possible) future purchases of other products (or services). On the other hand, a rebate is not a separately purchased product and, by definition, applies to the purchased product itself and cannot be applied to other distinct products. Relatedly, rebates are tied to a particular product, whereas gift certificates are typically not. Further, gift certificates are intended to be purchased by one person for the benefit of another. Not so with rebates. Consequently, the underlying business models of gift certificates and rebates are vastly different. Therefore, because the purchase and use of gift certificates is different from the processing of rebates, *Van Dusen* does not logically commend attention to the processing of electronic rebates, is not reasonably pertinent to the processing of electronic rebates and is non-analogous art. Accordingly, there is no motivation to combine *Van Dusen* as a reference.

Moreover, *Van Dusen* does not teach or suggest all the claim limitations. Specifically, *Van Dusen* does not disclose transmitting, by a rebate server computer system via a network, a purchase identifier to a store computer system. *Van Dusen* teaches sending a gift certificate email containing a claim code to the recipient of a gift certificate instead of the store computer. *Van Dusen* Col 3, Lines 60-62; Col 4, Lines 7-9. Therefore, *Van Dusen* does not disclose transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system.

Therefore, Applicants submit that claims 1, 4-9, 11-13, 15, 16-17, 19-21, 24, 27-32, 34-36, 38 and 39-44 are believed to be allowable, and allowance of the claims is respectfully requested.

Claims 10 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of *Quinlan* and *Van Dusen* and further in view of *Lemon*, US Patent 4,674,041.

Applicants submit that claims 10 and 33 are also believed to be allowable in light of the above arguments, and allowance of the claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact Gero McClellan, attorney of record, at (336) 643-3065, or the undersigned attorney to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted,

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